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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/808,149 03/24/2004 Ming Gao Yao		Ming Gao Yao	12553/109	5283	
KENYON & K	7590 12/10/200 ENYON	EXAMINER			
Suite 600	las Stuast	CASTRO, ANGEL A			
333 N. San Carlos Street San Jose, CA 95110-2711			ART UNIT	PAPER NUMBER	
			2627		
			MAIL DATE	DELIVERY MODE	
			12/10/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/808,149	YAO ET AL.	
Examiner	Art Unit	
Angel A. Castro	2627	

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address - THE REPLY FILED 24 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time perfods: a) ☐ The period for reply expiresmonths from the mailing date of the final rejection. Examiner Nois: [Ibo x is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLAY SFILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the peniod of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the peniod of extensions and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the peniod of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the peniod of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the peniod of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of appeal and for file filed after a final rejection, but prior to the date of filing the filed within two months of the filed filed after a filed seed filed after a filed replication		7 tilger 7 ti Gaoti o	2027
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the period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS form the mailing date of the final rejection. Examiner Note: if box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date of filing a the fee. The appropriate extension fee have been filed the filed for the final rejection, and the appropriate extension fee feeling and the appropriate extension feel of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). **NOTICE OF APPEAL** The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). **AMENDMENTS** The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a)	application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidavi eal (with appeal fee) in compliance	t, or other evidence, which places the with 37 CFR 41.31; or (3) a Request
no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (s) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the file. The appropriate extension fee set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if time months after the mailing date of the final rejection, even if time months after the mailing date of the final rejection, even if the final rejection, even if the months after the mailing date of the final rejection, even if the final rejection of the file of the final rejection of the file of the final rejection of the file of the file of the final rejection of the file	a) The period for reply expiresmonths from the mailing	date of the final rejection.	
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filling the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filling a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s): (See 31 CFR 1.136 and 41.33(a)). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended c	no event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (ater than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	g date of the final rejection.
2.	Extensions of time may be obtained under 37 CFR 1.136(a). The date have been filed is the date for purposes of determining the period of extunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	on which the petition under 37 CFR 1.1 cension and the corresponding amount of the chortened statutory period for reply origing than three months after the mailing dat	of the fee. The appropriate extension fee nally set in the final Office action; or (2) as
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS		liance with 37 CFR 41 37 must be t	filed within two months of the date of
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE:	filing the Notice of Appeal (37 CFR 41.37(a)), or any exter Notice of Appeal has been filed, any reply must be filed w	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of the appeal. Since a
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE:	(a) ☐ They raise new issues that would require further cor	nsideration and/or search (see NOา	
NOTE: (See 37 CFR 1.116 and 41.33(a)). 4.	(c) They are not deemed to place the application in bet appeal; and/or	ter form for appeal by materially rec	
 The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). Applicant's reply has overcome the following rejection(s): Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) objected to: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. 	· · · · · · · · · · · · · · · · · · ·	corresponding number of finally reje	ected claims.
5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.		21. See attached Notice of Non-Co	mpliant Amendment (PTOL-324).
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 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. 	how the new or amended claims would be rejected is prove The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected:		I be entered and an explanation of
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·	entered because the affidavit or other evidence failed to o	vercome <u>all</u> rejections under appea	al and/or appellant fails to provide a
REQUEST FOR RECONSIDERATION/OTHER	·	n of the status of the claims after er	ntry is below or attached.
11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The position of record has been maintained.	11. 🛮 The request for reconsideration has been considered bu	t does NOT place the application in	condition for allowance because:
12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s)13. Other:		PTO/SB/08) Paper No(s)	
/Angel A Castro/		/Angel A Castro/	
Primary Examiner, Art Unit 2627			nit 2627